

UNITED STATES of AMERICA
U.S. DISTRICT COURT -- EASTERN DISTRICT OF MICHIGAN

ANTHONY CICALO,

Plaintiff,

DEMAND FOR JURY TRIAL

-vs-

Case No.
Hon.

RIEXINGER & ASSOCIATES, LLC, and
RIVERWALK HOLDINGS, LLC,

Defendants.

COMPLAINT & JURY DEMAND

Introduction

1. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give debtors certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

Jurisdiction

2. This court has federal question jurisdiction under the Fair Debt Collection Practices Act, 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331, 1337.
3. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

Parties

4. The Plaintiff to this lawsuit resides in Flushing , Michigan in Genesee County.
5. Riexinger & Associates, LLC is a corporation doing business in Michigan.
6. Riverwalk Holdings, LLC is a corporation doing business in Michigan.

Venue

7. The transactions and occurrences which give rise to this action occurred in Genesee County.
8. Venue is proper in the Eastern District of Michigan.

General Allegations

9. On or about February 5, 2013, Riexinger & Associates, LLC as agent for Riverwalk Holdings, LLC, in an attempt to collect an alleged debt, sent the Plaintiff a dunning letter seeking to collect a balance of an amount certain. (“February 5, 2013 letter”)
10. The balance sought in the February 5, 2013 letter continued to accrue interest, yet the letter itself contained no disclaimer that the amount sought could vary.
11. The balance sought in the February 5, 2013 letter did not take into account credits to which the Plaintiff was entitled due to previous payments to a prior debt collector.
12. The balance, upon information and belief included post-charge off interest amounts that exceeded amounts due under the contract or allowed by law.
13. On February 26, 2013, Plaintiff sent a letter to Riexinger & Associates, LLC stating that he disputed the debt and refused to pay it; Riexinger & Associates, LLC received this letter on March 4, 2013.
14. On March 6, 2013, Riexinger & Associates, LLC contacted the Plaintiff directly in an attempt to collect a debt, in violation of the FDCPA.

15. At all relevant times, Riexinger & Associates, LLC was the agent for Riverwalk Holdings, LLC.

COUNT I – Fair Debt Collection Practices Act (Riexinger & Associates, LLC)

16. Mr. Cicalo incorporates the preceding allegations by reference.
17. At all relevant times Riexinger & Associates, LLC – in the ordinary course of its business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
18. Riexinger & Associates, LLC is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
19. Riexinger & Associates, LLC 's foregoing acts in attempting to collect this alleged debt against Mr. Cicalo constitute violations of the FDCPA.
20. Mr. Cicalo has suffered damages as a result of these violations of the FDCPA.

COUNT II – Michigan Occupational Code (Riexinger & Associates, LLC)

21. Mr. Cicalo incorporates the preceding allegations by reference.
22. Riexinger & Associates, LLC is a "collection agency" as that term is defined in the Michigan Occupational Code, M.C.L. § 339.901(b).
23. Mr. Cicalo is a debtor as that term is defined in M.C.L. § 339.901(f).
24. Riexinger & Associates, LLC 's foregoing acts in attempting to collect this alleged debt against Mr. Cicalo constitute violations of the Occupational Code.
25. Mr. Cicalo has suffered damages as a result of these violations of the Michigan Occupational Code.

COUNT III – Fair Debt Collection Practices Act (Riverwalk Holdings, LLC)

26. Mr. Cicalo incorporates the preceding allegations by reference.
27. At all relevant times Riverwalk Holdings, LLC – in the ordinary course of its business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
28. Riexinger & Associates, LLC is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
29. Riverwalk Holdings, LLC's foregoing acts in attempting to collect this alleged debt against Mr. Cicalo constitute violations of the FDCPA.
30. Mr. Cicalo has suffered damages as a result of these violations of the FDCPA.

Demand for Jury Trial

31. Plaintiff demands trial by jury in this action.

Demand For Judgment for Relief

ACCORDINGLY, Mr. Cicalo requests that the Court:

- a. Assume jurisdiction over all claims;.*
- b. Award actual damages.*
- c. Award statutory damages.*
- d. Award punitive damages.*
- e. Award statutory costs and attorney fees.*

Respectfully Submitted,

ADAM G. TAUB & ASSOCIATES
CONSUMER LAW GROUP, PLC

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